IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6641 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SURPHABHAI HIRABHAI MADARIA DHIMAVALVI

Versus

STATE OF GUJRAT

Appearance:

1. Special Civil Application No. 6641 of 1990

MR NM KAPADIA for Petitioner No. 1

MS DS PANDIT ASSTT GOVERNMENT PLEADER for Respondents No. 1-2

RULE SERVED for Respondents No. 3-5

CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 30/10/2001

ORAL JUDGEMENT

Heard Mr.Nimish M. Kapadia, learned advocate appearing on behalf of the petitioner and Ms.D.S.Pandit, learned AGP appearing on behalf of the respondents -

State authorities.

In this main petition, this Court has issued Rule on 26th June, 1992 and ad-interim relief as prayed for in terms of Para-8[b] has been granted by this Court on 28th July, 1992. Learned advocate Mr.N.M.Kapadia, appearing on behalf of the petitioner has submitted that present petition has been filed by the petitioner and the names which are mentioned in Annexure-A, are the beneficiaries of the present petition. The question involved in the present petition is with regard to the possession of the land by the petitioner for many years. The petitioner has relied upon the order dated 7th October, 1998 passed in SCA No.5399/97 [Coram : C.K.Buch, J.] as also the decision dated 14th December, 1998 passed in SCA No.10539 /1998 [Coram M.S.Parikh, J.] and other decisions of this Court. It is also submitted that there is a committee consisting of Collector and Deputy Conservator of Forests, who would look into the matter as and when appropriate applications / representation are made in respect of the claim of the petitioners.

Learned advocate Mr.Kapadia submitted that the persons whose names are mentioned in Annexure-A - pg.7 of this petition, the concerned authority - Deputy Conservator of Forest has issued Sanad but actual possession of the land in question has not been handed over to said persons. Therefore, he submitted that the persons in whose favour Sand has been issued by the concerned authority and the persons in whose favour the Sanad has not been issued by the concerned authority, both will make necessary representation / applications within one month from today to the concerned Collector with prayers for granting benefits of the Government Policy in accordance with law.

Mr.Kapadia, learned advocate has further submitted that during the pendency of the present petition, some of persons whose names are mentioned in Annexure-A pg.7 have expires and therefore, now their legal heirs and representatives are cultivating the land in question. Therefore, the submission of the learned advocate Mr.Kapadia is that now the legal heirs and representative of the persons whose names are mentioned in Annexure-A will file necessary application and / or representation to the concerned authority and the concerned authority may be directed to consider such application that may be made by the legal heirs and representatives of the deceased persons. Mr.Kapadia, learned advocate has placed on record affidavit of one of the persons, wherein details have been given by the

petitioner that the list of the persons is given showing the names of the petitioners in whose favour Sanads are issued by the concerned authority and said persons are having revenue record in their favour. The affidavit tendered before this Court, is taken on record of this case.

In light of these facts and circumstances of the case, following directions are issued on the concerned authority - respondents herein.

It is directed to the petitioners and the persons whose names are mentioned in Annexure-A pg.7 or the legal heirs and representations of such deceased persons of the list - ANNEXURE, will make necessary application / representation within one month from today, to the District Collector concerned, for the purpose of granting benefit in accordance with the policy of the State Government. As and when such representation / applications are made, the same shall be decided by the concerned Committee or the Collector in accordance with law after hearing the petitioners. It is also directed to the Committee to consider the representation that may be filed by such persons on the basis of the fact that persons who are having Sanad in their favour, in that case, the Committee will consider the case of the petitioners for possession of the land in question and the committee will consider the case of the persons who are not having Sanad, then the committee will consider their case for granting the Sanad as well as giving possession of the land in question. It is further directed to the committee that the Committee will complete the exercise as directed above within two months thereafter on receipt of such representation / application as directed above and the committee will communicate in writing the decision that may be taken by the committee. However, the respondents will maintain status quo with regard to the possession till this order is complied with by the respondent authority. In light of above observations and directions, present petition is disposed of accordingly. Rule discharged. No Costs. Direct Service is permitted.

Date : 1-11-2001 [H.K.Rathod, J.]

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